

ESTTA Tracking number: **ESTTA580682**

Filing date: **01/08/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|--|
| Name | Mattel, Inc. |
| Granted to Date of previous extension | 01/08/2014 |
| Address | 333 CONTINENTAL BOULEVARD M1-1518 EL SEGUNDO, CA 90245 UNITED STATES |

| | |
|----------------------|--|
| Attorney information | Bobby A. Ghajar Pillsbury Winthrop Shaw Pittman LLP 725 S. Figueroa Suite 2800 Los Angeles, CA 90017 UNITED STATES bobby.ghajar@pillsburylaw.com, ingadelarosa@pillsburylaw.com, marcus.peterson@pillsburylaw.com Phone:213-488-7100 |
|----------------------|--|

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 85789772 | Publication date | 09/10/2013 |
| Opposition Filing Date | 01/08/2014 | Opposition Period Ends | 01/08/2014 |
| Applicant | 235 Ashland Holdings, Inc. 235 N. Ashland Chicago, IL 60607 ISRAEL | | |

Goods/Services Affected by Opposition


| |
|--|
| Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Clothing, namely, shirts, t-shirts, jackets, coats, hats, caps, scarves, socks,sweaters, athletic gear, namely, sweatshirts and sweat pants |
| Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beers |
| Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Bar services; Brewpub services; Restaurant services |


Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| False suggestion of a connection | Trademark Act section 2(a) |
| Priority and likelihood of confusion | Trademark Act section 2(d) |

Marks Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 1212575 | Application Date | 01/15/1982 |
| Registration Date | 10/12/1982 | Foreign Priority Date | NONE |
| Word Mark | CASTLE GRAYSKULL | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 1981/12/28 First Use In Commerce: 1981/12/28 Play Set-Namely, Simulated Castle, Action Figures [and Toy Vehicles] | | |

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4175933 | Application Date | 05/05/2009 |
| Registration Date | 07/17/2012 | Foreign Priority Date | NONE |
| Word Mark | GRAYSKULL | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 2012/01/17 First Use In Commerce: 2012/01/17 TOYS, GAMES AND PLAYTHINGS, NAMELY, TOYACTION FIGURES AND ACCESSORIES THEREFOR | | |

| | | | |
|----------------------|--|-----------------------|------------|
| U.S. Application No. | 85238781 | Application Date | 02/10/2011 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | CASTLE GRAYSKULL | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |

| | |
|----------------|---|
| Goods/Services | Class 025. First use: First Use: 0 First Use In Commerce: 0 CLOTHING, NAMELY, TOPS, BOTTOMS, SHORTS, PANTS, SCARFS, SWEAT SHIRTS, SOCKS, UNDERGARMENTS, SLEEPWEAR, JACKETS, BANDANAS, MITTENS, GLOVES, BELTS, EARMUFFS, TIES, SWIM TRUNKS, SWIM SUITS; HEADWEAR; FOOTWEAR |
|----------------|---|

| | |
|-------------|--|
| Attachments | 77729316#TMSN.jpeg(bytes) 85238781#TMSN.jpeg(bytes) Notice of Opposition of GREYSKULL BREWING COMPANY.pdf(1044351 bytes) |
|-------------|--|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|-----------------|
| Signature | /Bobby Ghajar/ |
| Name | Bobby A. Ghajar |
| Date | 01/08/2014 |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

| | | |
|-----------------------------|---|-----------------------------------|
| Mattel, Inc., | § | |
| | § | Opposition No. _____ |
| Opposer, | § | |
| | § | Application Ser. No.: 85/789,772 |
| v. | § | |
| | § | Date of Filing: November 28, 2012 |
| 235 Ashland Holdings, Inc., | § | |
| | § | Subject Mark: GREYSKULL BREWING |
| Applicant. | § | COMPANY (Word Mark) |
| | § | |

NOTICE OF OPPOSITION

Opposer Mattel, Inc., a Delaware corporation ("Mattel"), having a place of business at 333 Continental Boulevard, El Segundo, California 90245, believes that it will be damaged by the registration of U.S. Ser. No. 85/789,772 ("the '772 Application"), filed November 28, 2012 for the mark GREYSKULL BREWING COMPANY. The '772 Application was published for opposition on September 10, 2013. Mattel timely took an extension of time to oppose the '772 Application on October 9, 2013, giving Mattel until January 8, 2014 to oppose the application.

Mattel hereby opposes the '772 Application on the following grounds:

MATTEL'S GRAYSKULL MARKS

1. Mattel is the world's largest toy company and is the owner of various famous brands, including its famous MASTERS OF THE UNIVERSE® franchise of toys and related goods and services, including entertainment services.

2. Over the past 30 years, Mattel has used the marks CASTLE GRAYSKULL® and (more recently) GRAYSKULL® in association with its MASTERS OF THE UNIVERSE franchise. CASTLE GRAYSKULL is the home of He-Man and has been featured in animated series, a feature film, video games, and numerous products, including toys, clothing, and other goods.

3. Mattel owns U.S. Trademark Reg. No. 1,212,575 for CASTLE GRAYSKULL, for "Play set – namely, simulated castle, action figures and toy vehicles" in International Class 28, which has been in used since 1981. The mark registered October 12, 1982 and is incontestable. Mattel also owns U.S. Trademark Reg. No. 4,175,933 for GRAYSKULL for "Toys, games and playthings, namely toy action figures and accessories therefore" in International Class 28. These registrations are attached as **Exhibits A** and **B**, respectively.

4. In addition, Mattel owns a number of prior-filed trademark applications for CASTLE GRAYSKULL, including but not limited to Application Ser. No. 85/238,781 in connection with “[c]lothing, namely, tops, bottoms, shorts, pants, scarfs, sweat shirts, socks, undergarments, sleepwear, jackets, bandanas, mittens, gloves, belts, earmuffs, ties, swim trunks, swim suits; headwear; footwear” in International Class 25, filed February 10, 2011. A true and correct copy of the current TESS printout for this Application is attached as **Exhibit C**.

5. Because of their long-standing use and recognition, Mattel’s highly distinctive CASTLE GRAYSKULL and GRAYSKULL Marks (collectively, “GRAYSKULL Marks”) represent tremendous goodwill. The GRAYSKULL Marks are instantly recognizable and associated exclusively with Mattel. Mattel also has longstanding common-law rights to the GRAYSKULL Marks in connection with various goods and services, including but not limited to clothing and many other sundry items.

6. Mattel has expended considerable effort and expense in promoting the GRAYSKULL Marks, and goods and services offered in connection with these marks, in the United States.

APPLICANT’S GREYSKULL BREWING COMPANY MARK

7. Applicant seeks to register the mark GREYSKULL BREWING COMPANY in connection with “Clothing, namely, shirts, t-shirts, jackets, coats, hats, caps, scarves, socks, sweaters, athletic gear, namely, sweatshirts and sweat pants” in International Class 25, with “Beers” in International Class 32, and with “Bar services; brewpub services; restaurant services” in International Class 43, all for which Applicant applied on an intent-to-use basis. Applicant disclaimed the descriptive wording “BREWING COMPANY.”

8. Upon information and belief, Applicant selected the GREYSKULL BREWING COMPANY mark with knowledge of the GRAYSKULL Marks.

9. Mattel is not affiliated or connected with Applicant or its goods or services; nor has Mattel endorsed or sponsored Applicant or its goods or services.

10. Mattel began using its GRAYSKULL Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the filing date of the application for the GREYSKULL BREWING COMPANY mark.

11. Applicant’s GREYSKULL BREWING COMPANY Mark, and especially the dominant “GREYSKULL” portion of the mark given that Applicant disclaimed “BREWING

COMPANY,” is nearly identical in sound, appearance, and commercial impression to Mattel’s GRAYSKULL Marks.

12. In view of the strength of the GRAYSKULL Marks, Mattel’s longstanding use of the mark on a variety of goods and services, including but not limited to clothing, and the relatedness of Applicant’s goods (which include clothing and beverages) to Mattel’s products and services, purchasers are likely to mistakenly believe that Applicant’s GREYSKULL BREWING COMPANY goods and services originate from, are sponsored by, or are in some way associated with Mattel, when they are not.

13. Neither Mattel’s nor Applicant’s identifications of goods and services contain any limitation on channels of trade. Thus, because the goods and services are of a type that would be offered to and obtained by the general public, the channels of trade for the respective parties’ goods and services completely overlap.

14. Applicant’s mark was filed as a standard character mark; therefore, nothing prevents Applicant from using a font or stylization similar to that used by Mattel in connection with its GRAYSKULL Marks.

15. Registration of the GREYSKULL BREWING COMPANY mark will injure Mattel by causing the public to be confused or mistaken into believing that the goods and services provided by Applicant are endorsed or sponsored by Mattel. Mattel has no control over the nature and quality of the goods and services offered by Applicant under the confusingly similar GREYSKULL BREWING COMPANY mark, and Mattel’s reputation and goodwill will be damaged and the value of the GRAYSKULL Marks jeopardized, all to Mattel’s detriment.

16. Any defect, objection, or fault found with Applicant’s goods or services marketed under the GREYSKULL BREWING COMPANY mark would necessarily reflect upon and injure the reputation that Mattel has established for the goods and services it offers in connection with the GRAYSKULL Marks.

17. Accordingly, registration of the mark herein will damage Mattel because the mark is likely, when used on or in connection with the goods and services described in the registration, to cause confusion, or to cause mistake or to deceive.

18. For all of these reasons, Mattel is likely to be damaged by the registration for GREYSKULL BREWING COMPANY by Applicant.

WHEREFORE, Mattel respectfully requests that Application Serial No. 85/789,772 be refused registration.

Respectfully submitted,
Mattel, Inc.

Date: January 8, 2014

By: /s/ Bobby Ghajar
Bobby Ghajar
Marcus Peterson
PILLSBURY WINTHROP SHAW PITTMAN
725 S. Figueroa St., Suite 2800
Los Angeles, CA 90017
(213) 488-7545

| CERTIFICATE OF ELECTRONIC TRANSMISSION | |
|--|--|
| DATE OF DEPOSIT | |
| I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated above. | |
| <u>/s/ Marcus Peterson</u> Marcus Peterson | |

CERTIFICATE OF SERVICE VIA MAIL

I, Marcus Peterson, Esq., of Pillsbury Winthrop Shaw Pittman LLP, attorneys for Opposer Mattel, Inc., hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION was served via postage prepaid first class mail on January 8, 2014 on Counsel for Applicant to Brian M. Mattson, Patents + TMS, P.C., 2849 W. Armitage Ave. Chicago, IL 60647.

/s/ Marcus Peterson
Marcus Peterson

EXHIBIT A

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| | |
|---------------------------------|---|
| Word Mark | CASTLE GRAYSKULL |
| Goods and Services | IC 028. US 022 023 038 050. G & S: Play Set-Namely, Simulated Castle, Action Figures [and Toy Vehicles]. FIRST USE: 19811228. FIRST USE IN COMMERCE: 19811228 |
| Mark Drawing Code | (1) TYPED DRAWING |
| Serial Number | 73345634 |
| Filing Date | January 15, 1982 |
| Current Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | July 20, 1982 |
| Registration Number | 1212575 |
| Registration Date | October 12, 1982 |
| Owner | (REGISTRANT) Mattel, Inc. CORPORATION DELAWARE 333 CONTINENTAL BOULEVARD EL SEGUNDO CALIFORNIA 90245-501 |
| Assignment Recorded | ASSIGNMENT RECORDED |
| Attorney of Record | MATT SOLMON |
| Disclaimer | No claim is made to exclusive use of the word "Castle" apart from the mark as shown. |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |
| Affidavit Text | SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130416. |
| Renewal | 2ND RENEWAL 20130416 |
| Live/Dead Indicator | LIVE |

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Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,212,575

Registered Oct. 12, 1982

TRADEMARK

Principal Register

CASTLE GRAYSKULL

Mattel, Inc. (Delaware corporation)
5150 Rosecrans Ave.
Hawthorne, Calif. 90250

For: PLAY SET—NAMELY, SIMULATED
CASTLE, ACTION FIGURES AND TOY VEHIC-
LES, in CLASS 28 (U.S. Cl. 22).

First use Dec. 28, 1981; in commerce Dec. 28,
1981.

No claim is made to exclusive use of the word
"Castle" apart from the mark as shown.

Ser. No. 345,634, filed Jan. 15, 1982.

HENRY S. ZAK, Primary Examiner

EXHIBIT B



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GRAYSKULL

| | |
|------------------------------------|--|
| Word Mark | GRAYSKULL |
| Goods and Services | IC 028. US 022 023 038 050. G & S: TOYS, GAMES AND PLAYTHINGS, NAMELY, TOY ACTION FIGURES AND ACCESSORIES THEREFOR. FIRST USE: 20120117. FIRST USE IN COMMERCE: 20120117 |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 77729316 |
| Filing Date | May 5, 2009 |
| Current Basis | 1A |
| Original Filing Basis | 1B |
| Published for Opposition | September 15, 2009 |
| Registration Number | 4175933 |
| Registration Date | July 17, 2012 |
| Owner | (REGISTRANT) MATTEL, INC. CORPORATION DELAWARE M1-1518 333 CONTINENTAL BOULEVARD EL SEGUNDO CALIFORNIA 90245 |
| Attorney of Record | MICHAEL MOORE |
| Prior Registrations | 1212575;2854996;2916555 |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL LIVE |

**Live/Dead
Indicator**

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United States of America

United States Patent and Trademark Office

GRAYSKULL

Reg. No. 4,175,933

Registered July 17, 2012

Int. Cl.: 28

TRADEMARK

PRINCIPAL REGISTER

MATTEL, INC. (DELAWARE CORPORATION)
 51-1518
 353 CONTINENTAL BOULEVARD
 EL SEGUNDO, CA 90245

FOR: TOYS, GAMES AND PLAYTHINGS, NAMELY, TOY ACTION FIGURES AND ACCESSORIES THEREFOR, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 1-17-2012; IN COMMERCIAL 1-17-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,212,575, 2,854,696, AND 2,916,555.

SN 77-729,316, FILED 5-5-2009.

JASON BLAIR, EXAMINING ATTORNEY



David J. Kappas

Number of this Official Notice of Publication is 4,175,933.

EXHIBIT C



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CASTLE GRAYSKULL

| | |
|------------------------------------|--|
| Word Mark | CASTLE GRAYSKULL |
| Goods and Services | IC 025. US 022 039. G & S: CLOTHING, NAMELY, TOPS, BOTTOMS, SHORTS, PANTS, SCARFS, SWEAT SHIRTS, SOCKS, UNDERGARMENTS, SLEEPWEAR, JACKETS, BANDANAS, MITTENS, GLOVES, BELTS, EARMUFFS, TIES, SWIM TRUNKS, SWIM SUITS; HEADWEAR; FOOTWEAR |
| Standard Characters Claimed | |
| Mark Drawing Code | (4) STANDARD CHARACTER MARK |
| Serial Number | 85238781 |
| Filing Date | February 10, 2011 |
| Current Basis | 1B |
| Original Filing Basis | 1B |
| Published for Opposition | February 28, 2012 |
| Owner | (APPLICANT) MATTEL, INC. CORPORATION DELAWARE 333 CONTINENTAL BOULEVARD M1-1518 EL SEGUNDO CALIFORNIA 90245 |
| Attorney of Record | MATT SOLMON |
| Prior Registrations | 1212575;3908514;3958146 |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |
| Live/Dead Indicator | LIVE |

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